

108TH CONGRESS
2D SESSION

H. R. 4011

To promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2004

Mr. LEACH (for himself, Mr. LANTOS, Mr. COX, Mr. FALEOMAVAEGA, Mr. SMITH of New Jersey, Mr. BERMAN, Mr. ROYCE, Mr. ACKERMAN, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “North Korean Human
5 Rights Act of 2004”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Findings.
 Sec. 4. Purposes.
 Sec. 5. Definitions.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

Sec. 101. Sense of congress regarding negotiations with North Korea.
 Sec. 102. Support for human rights and democracy programs.
 Sec. 103. Radio broadcasting to North Korea.
 Sec. 104. Actions to promote freedom of information.
 Sec. 105. United Nations Commission on Human Rights.

TITLE II—ASSISTING NORTH KOREANS IN NEED

Sec. 201. Report on United States humanitarian assistance.
 Sec. 202. Assistance provided inside North Korea.
 Sec. 203. Assistance provided outside of North Korea.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

Sec. 301. United States policy toward refugees and defectors.
 Sec. 302. Eligibility for refugee or asylum consideration.
 Sec. 303. Refugee status.
 Sec. 304. Pursuit of first asylum policy.
 Sec. 305. United Nations High Commissioner for Refugees.
 Sec. 306. Humanitarian parole.
 Sec. 307. North Korean status adjustment.
 Sec. 308. Temporary protected status.
 Sec. 309. Right to accept employment.
 Sec. 310. Annual reports.

1 **SEC. 3. FINDINGS.**

2 Congress makes the following findings:

3 (1) According to the Department of State, the
 4 Government of North Korea is “a dictatorship under
 5 the absolute rule of Kim Jong Il” that continues to
 6 commit numerous, serious human rights abuses.

7 (2) The Government of North Korea attempts
 8 to control all information, artistic expression, aca-
 9 demic works, and media activity inside North Korea
 10 and strictly curtails freedom of speech and access to
 11 foreign broadcasts.

1 (3) The Government of North Korea subjects
2 all its citizens to systematic, intensive political and
3 ideological indoctrination in support of the cult of
4 personality glorifying Kim Jong Il and the late Kim
5 Il Sung that approaches the level of a state religion.

6 (4) The Government of North Korea divides its
7 population into categories, based on perceived loyalty
8 to the leadership, which determines access to em-
9 ployment, higher education, place of residence, med-
10 ical facilities, and other resources.

11 (5) According to the Department of State,
12 “[t]he [North Korean] Penal Code is [d]raconian,
13 stipulating capital punishment and confiscation of
14 assets for a wide variety of ‘crimes against the revo-
15 lution,’ including defection, attempted defection,
16 slander of the policies of the Party or State, listen-
17 ing to foreign broadcasts, writing ‘reactionary’ let-
18 ters, and possessing reactionary printed matter”.

19 (6) The Government of North Korea executes
20 political prisoners, opponents of the regime, some re-
21 patriated defectors, some members of underground
22 churches, and others, sometimes at public meetings
23 attended by workers, students, and schoolchildren.

24 (7) The Government of North Korea holds an
25 estimated 200,000 political prisoners in camps that

1 its State Security Agency manages through the use
2 of forced labor, beatings, torture, and executions,
3 and in which many prisoners also die from disease,
4 starvation, and exposure.

5 (8) According to eyewitness testimony provided
6 to the United States Congress by North Korean
7 camp survivors, camp inmates have been used as
8 sources of slave labor for the production of export
9 goods, as targets for martial arts practice, and as
10 experimental victims in the testing of chemical and
11 biological poisons.

12 (9) According to credible reports, including eye-
13 witness testimony provided to the United States
14 Congress, North Korean Government officials pro-
15 hibit live births in prison camps, and forced abortion
16 and the killing of newborn babies are standard pris-
17 on practices.

18 (10) According to the Department of State,
19 “[g]enuine religious freedom does not exist in North
20 Korea” and, according to the United States Com-
21 mission on International Religious Freedom, “[t]he
22 North Korean state severely represses public and
23 private religious activities” with penalties that re-
24 portedly include arrest, imprisonment, torture, and
25 sometimes execution.

1 (11) More than 2,000,000 North Koreans are
2 estimated to have died of starvation since the early
3 1990s because of the failure of the centralized agri-
4 cultural and public distribution systems operated by
5 the Government of North Korea.

6 (12) According to a 2002 United Nations-Euro-
7 pean Union survey, nearly one out of every ten chil-
8 dren in North Korea suffers from acute malnutrition
9 and four out of every ten children in North Korea
10 are chronically malnourished.

11 (13) Since 1995, the United States has pro-
12 vided more than 2,000,000 tons of humanitarian
13 food assistance to the people of North Korea, pri-
14 marily through the World Food Program.

15 (14) Although United States food assistance
16 has undoubtedly saved many North Korean lives and
17 there have been minor improvements in transparency
18 relating to the distribution of such assistance in
19 North Korea, the Government of North Korea con-
20 tinues to deny the World Food Program forms of ac-
21 cess necessary to properly monitor the delivery of
22 food aid, including the ability to conduct random site
23 visits, the use of native Korean-speaking employees,
24 and travel access throughout North Korea.

1 (15) The risk of starvation, the threat of perse-
2 cution, and the lack of freedom and opportunity in
3 North Korea have caused many thousands, perhaps
4 even hundreds of thousands, of North Koreans to
5 flee their homeland, primarily into China.

6 (16) North Korean women and girls, particu-
7 larly those who have fled into China, are at risk of
8 being kidnapped, trafficked, and sexually exploited
9 inside China, where many are sold as brides or con-
10 cubines, or forced to work as prostitutes.

11 (17) The Governments of China and North
12 Korea have been conducting aggressive campaigns to
13 locate North Koreans who are in China without per-
14 mission and to forcibly return them to North Korea,
15 where they routinely face torture and imprisonment,
16 and sometimes execution.

17 (18) Despite China's obligations as a party to
18 the 1951 United Nations Convention Relating to the
19 Status of Refugees and the 1967 Protocol Relating
20 to the Status of Refugees China routinely classifies
21 North Koreans seeking asylum in China as mere
22 "economic migrants" and returns them to North
23 Korea without regard to the serious threat of perse-
24 cution they face upon their return.

1 (19) The Government of China does not provide
2 North Koreans whose asylum requests are rejected
3 a right to have the rejection reviewed prior to depor-
4 tation despite the recommendations of the 1951
5 United Nations Convention Relating to the Status of
6 Refugees and the 1967 Protocol Relating to the Sta-
7 tus of Refugees that such a right be granted.

8 (20) North Koreans who seek asylum while in
9 China are routinely imprisoned and tortured, and in
10 some cases killed, after they are returned to North
11 Korea.

12 (21) The Government of China has detained,
13 convicted, and imprisoned foreign aid workers at-
14 tempting to assist North Korean refugees, including
15 the Reverend Choi Bong Il and Mr. Kim Hee Tae,
16 in proceedings that did not comply with Chinese law
17 or international standards.

18 (22) In January 2000, North Korean agents in-
19 side China allegedly abducted the Reverend Kim
20 Dong-shik, a United States permanent resident and
21 advocate for North Korean refugees, whose condition
22 and whereabouts remain unknown.

23 (23) Between 1994 and 2003, South Korea has
24 admitted approximately 3,800 North Korean refu-
25 gees for domestic resettlement, a number small in

1 comparison with the total number of North Korean
2 escapees, but far greater than the number legally
3 admitted by any other country.

4 (24) Although the principal responsibility for
5 North Korean refugee resettlement naturally falls to
6 the Government of South Korea, the United States
7 should play a leadership role in focusing inter-
8 national attention on the plight of these refugees,
9 formulating international solutions to that profound
10 humanitarian dilemma, and making prudent ar-
11 rangements to accept a credible number of refugees
12 for domestic resettlement.

13 (25) In addition to infringing the rights of its
14 own citizens, the Government of North Korea has
15 been responsible in years past for the abduction of
16 numerous citizens of South Korea and Japan, whose
17 condition and whereabouts remain unknown.

18 **SEC. 4. PURPOSES.**

19 The purposes of this Act are—

20 (1) to promote respect for and protection of
21 fundamental human rights in North Korea;

22 (2) to promote a more durable humanitarian so-
23 lution to the plight of North Korean refugees;

1 (3) to promote increased monitoring, access,
2 and transparency in the provision of humanitarian
3 assistance inside North Korea;

4 (4) to promote the free flow of information into
5 and out of North Korea; and

6 (4) to promote progress toward the peaceful re-
7 unification of the Korean peninsula under a demo-
8 cratic system of government.

9 **SEC. 5. DEFINITIONS.**

10 In this Act:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on International Rela-
15 tions of the House of Representatives; and

16 (B) the Committee on Foreign Relations of
17 the Senate.

18 (2) CHINA.—The term “China” means the Peo-
19 ple’s Republic of China.

20 (3) HUMANITARIAN ASSISTANCE.—The term
21 “humanitarian assistance” means assistance to meet
22 humanitarian needs, including needs for food, medi-
23 cine, medical supplies, clothing, and shelter.

24 (4) NORTH KOREA.—The term “North Korea”
25 means the Democratic People’s Republic of Korea.

1 (5) NORTH KOREANS.—The term “North Kore-
2 ans” means persons who are citizens or nationals of
3 North Korea.

4 (6) SOUTH KOREA.—The term “South Korea”
5 means the Republic of Korea.

6 **TITLE I—PROMOTING THE**
7 **HUMAN RIGHTS OF NORTH**
8 **KOREANS**

9 **SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS**
10 **WITH NORTH KOREA.**

11 It is the sense of Congress that the human rights of
12 North Koreans should remain a key concern in future ne-
13 gotiations between the United States, North Korea, and
14 other concerned parties in Northeast Asia.

15 **SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY**
16 **PROGRAMS.**

17 (a) SUPPORT.—The President is authorized to pro-
18 vide grants to private, nonprofit organizations to support
19 programs that promote human rights, democracy, rule of
20 law, and the development of a market economy in North
21 Korea.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) IN GENERAL.—There are authorized to be
24 appropriated to the President \$2,000,000 for each of

1 the fiscal years 2005 through 2008 to carry out this
2 section.

3 (2) AVAILABILITY.—Amounts appropriated pur-
4 suant to the authorization of appropriations under
5 paragraph (1) are authorized to remain available
6 until expended.

7 **SEC. 103. RADIO BROADCASTING TO NORTH KOREA.**

8 (a) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that the United States should facilitate the
10 unhindered dissemination of information in North Korea
11 by increasing its support for radio broadcasting to North
12 Korea, and that the Broadcasting Board of Governors
13 should increase broadcasts to North Korea from current
14 levels, with a goal of providing 12-hour-per-day broad-
15 casting to North Korea, including broadcasts by Radio
16 Free Asia and Voice of America.

17 (b) REPORT.—Not later than 120 days after the date
18 of the enactment of this Act, the Broadcasting Board of
19 Governors shall submit to the appropriate congressional
20 committees a report that—

21 (1) describes the status of current United
22 States broadcasting to North Korea; and

23 (2) outlines a plan for increasing such broad-
24 casts to 12 hours per day, including a detailed de-

1 scription of the technical and fiscal requirements
2 necessary to implement the plan.

3 **SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMA-**
4 **TION.**

5 (a) ACTIONS.—The President is authorized to take
6 such actions as may be necessary to increase the avail-
7 ability of information inside North Korea by increasing
8 the availability of sources of information not controlled by
9 the Government of North Korea, including sources such
10 as radios capable of receiving broadcasting from outside
11 North Korea.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) IN GENERAL.—There are authorized to be
14 appropriated to the President \$2,000,000 for each of
15 the fiscal years 2005 through 2008 to carry out sub-
16 section (a).

17 (2) AVAILABILITY.—Amounts appropriated pur-
18 suant to the authorization of appropriations under
19 paragraph (1) are authorized to remain available
20 until expended.

21 (c) REPORT.—Not later than 1 year after the date
22 of the enactment of this Act, and in each of the 3 years
23 thereafter, the Secretary of State, after consultation with
24 the heads of other appropriate Federal departments and
25 agencies, shall submit to the appropriate congressional

1 committees a report, in classified form, on actions taken
2 pursuant to this section.

3 **SEC. 105. UNITED NATIONS COMMISSION ON HUMAN**
4 **RIGHTS.**

5 It is the sense of Congress that the United Nations
6 has a significant role to play in promoting and improving
7 human rights in North Korea, that the adoption by the
8 United Nations Commission on Human Rights of Resolu-
9 tion 2003/10 on the situation of human rights in North
10 Korea was a positive step, and that the severe human
11 rights violations within North Korea warrant—

12 (1) an additional country-specific resolution by
13 the United Nations Commission on Human Rights
14 that includes the language necessary to authorize
15 the appointment of a Special Rapporteur of the
16 United Nations Commission on Human Rights on
17 the situation of human rights in North Korea; and

18 (2) country-specific attention and reporting by
19 the United Nations Working Group on Arbitrary
20 Detention, the Working Group on Enforced and In-
21 voluntary Disappearances, the Special Rapporteur
22 on Extrajudicial, Summary, or Arbitrary Executions,
23 the Special Rapporteur on the Right to Food, the
24 Special Rapporteur on the Promotion and Protection
25 of the Right to Freedom of Opinion and Expression,

1 the Special Rapporteur on Freedom of Religion or
2 Belief, and the Special Rapporteur on Violence
3 Against Women.

4 **TITLE II—ASSISTING NORTH**
5 **KOREANS IN NEED**

6 **SEC. 201. REPORT ON UNITED STATES HUMANITARIAN AS-**
7 **SISTANCE.**

8 (a) REPORT.—Not later than 180 days after the date
9 of the enactment of this Act, and in each of the 2 years
10 thereafter, the Administrator of the United States Agency
11 for International Development, in conjunction with the
12 Secretary of State, shall submit to the appropriate con-
13 gressional committees a report that describes—

14 (1) all activities to provide humanitarian assist-
15 ance inside North Korea, and to North Koreans out-
16 side of North Korea, that receive United States
17 funding;

18 (2) any improvements in humanitarian trans-
19 parency, monitoring, and access inside North Korea
20 during the previous 1-year period, including progress
21 toward meeting the conditions identified in para-
22 graphs (1) through (4) of section 202(b); and

23 (3) specific efforts to secure improved humani-
24 tarian transparency, monitoring, and access inside
25 North Korea made by the United States and United

1 States grantees, including the World Food Program,
2 during the previous 1-year period.

3 (b) FORM.—The information required by subsection
4 (a)(1) may be provided in classified form if necessary.

5 **SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.**

6 (a) HUMANITARIAN ASSISTANCE THROUGH NON-
7 GOVERNMENTAL ORGANIZATIONS.—

8 (1) ASSISTANCE.—The President is authorized
9 to provide assistance, including in the form of
10 grants, to the World Food Program and to United
11 States nongovernmental organizations for the pur-
12 pose of providing humanitarian assistance to North
13 Koreans inside North Korea.

14 (2) SENSE OF CONGRESS.—It is the sense of
15 Congress that significant increases above current
16 levels of United States support for humanitarian as-
17 sistance provided inside North Korea should be con-
18 ditioned upon substantial improvements in trans-
19 parency, monitoring, and access to vulnerable popu-
20 lations throughout North Korea, and that significant
21 improvements in those areas therefore would be re-
22 quired to justify appropriation and obligation of the
23 full amounts authorized to be appropriated by this
24 subsection.

25 (3) AUTHORIZATION OF APPROPRIATIONS.—

1 (A) IN GENERAL.—There are authorized to
2 be appropriated to the President not less than
3 \$100,000,000 for each of the fiscal years 2005
4 through 2008 to carry out this subsection.

5 (B) AVAILABILITY.—Amounts appro-
6 priated pursuant to the authorization of appro-
7 priations under subparagraph (A) are author-
8 ized to remain available until expended.

9 (b) HUMANITARIAN ASSISTANCE TO THE GOVERN-
10 MENT OF NORTH KOREA.—No department, agency, or en-
11 tity of the United States Government may provide human-
12 itarian assistance to any department, agency, or entity of
13 the Government of North Korea unless such United States
14 Government department, agency, or entity certifies in
15 writing to the appropriate congressional committees that
16 the Government of North Korea has taken steps to ensure
17 that—

18 (1) such assistance is delivered, distributed, and
19 monitored according to internationally recognized
20 humanitarian standards;

21 (2) such assistance is provided on a needs basis,
22 and is not used as a political reward or tool of coer-
23 cion;

1 (3) such assistance reaches the intended bene-
2 ficiaries, who are informed of the source of the as-
3 sistance; and

4 (4) humanitarian access to all vulnerable
5 groups in North Korea is allowed, no matter where
6 in the country they may be located.

7 (c) NONHUMANITARIAN ASSISTANCE TO THE GOV-
8 ERNMENT OF NORTH KOREA.—No department, agency,
9 or entity of the United States Government may provide
10 nonhumanitarian assistance to any department, agency, or
11 entity of the Government of North Korea unless such
12 United States Government department, agency, or entity
13 certifies in writing to the appropriate congressional com-
14 mittees that the Government of North Korea has made
15 substantial progress toward—

16 (1) respecting and protecting basic human
17 rights, including freedom of religion, of the people of
18 North Korea;

19 (2) providing for significant family reunification
20 between North Koreans and their descendants and
21 relatives in the United States;

22 (3) fully disclosing all information regarding
23 citizens of Japan and the Republic of Korea ab-
24 ducted by the Government of North Korea;

(d) WAIVER.—The President may waive the prohibition contained in subsection (b) or (c) if the President determines that it is in the national security interest of the United States to do so. Prior to exercising the waiver authority contained in the preceding sentence, the President shall transmit to the appropriate congressional committees a report that contains the determination of the President pursuant to the preceding sentence and a description of the assistance to be provided.

(a) ASSISTANCE.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance or legal assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

1 (b) TYPES OF ASSISTANCE.—Assistance provided
2 under subsection (a) should be used to provide—

3 (1) humanitarian assistance to North Korean
4 refugees, defectors, migrants, and orphans outside of
5 North Korea, which may include support for refugee
6 camps or temporary settlements;

7 (2) legal assistance to North Koreans who are
8 seeking to apply for refugee status, asylum, parole,
9 or other similar forms of protection and resettlement;
10 and

11 (3) humanitarian assistance and legal assistance
12 to North Korean women outside of North
13 Korea who are victims of trafficking, as defined in
14 section 103(14) of the Trafficking Victims Protection
15 Act of 2000 (22 U.S.C. 7102(14)), or are in
16 danger of being trafficked.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—

18 (1) IN GENERAL.—In addition to funds otherwise
19 available for such purposes, there are authorized
20 to be appropriated to the President
21 \$20,000,000 for each of the fiscal years 2005
22 through 2008 to carry out this section.

23 (2) AVAILABILITY.—Amounts appropriated pursuant
24 to subsection (a) are authorized to remain
25 available until expended.

1 **TITLE III—PROTECTING NORTH**
2 **KOREAN REFUGEES**

3 **SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND**
4 **DEFECTORS.**

5 (a) REPORT.—Not later than 120 days after the date
6 of the enactment of this Act, the Secretary of State, in
7 cooperation with the Secretary of Homeland Security, the
8 Director of Central Intelligence, and the heads of other
9 appropriate Federal departments and agencies, shall sub-
10 mit to the appropriate congressional committees a report
11 in unclassified form that describes the situation of North
12 Korean refugees and explains United States Government
13 policy toward North Korean refugees and defectors.

14 (b) CONTENTS.—The report shall include—

15 (1) information on North Koreans currently
16 outside of North Korea without permission (includ-
17 ing refugees, defectors, and migrants), such as their
18 estimated numbers and the countries and regions in
19 which they are currently residing;

20 (2) an assessment of the circumstances facing
21 North Korean refugees and migrants in hiding, par-
22 ticularly in China, and of the circumstances they
23 face when forcibly returned to North Korea;

24 (3) an assessment of whether North Koreans in
25 China have effective access to personnel of the

1 United Nations High Commissioner for Refugees,
2 and of whether the Government of China is fulfilling
3 its obligations under the 1951 Convention Relating
4 to the Status of Refugees, particularly Articles 31,
5 32, and 33 of such Convention;

6 (4) an assessment of whether North Koreans
7 presently have effective access to United States ref-
8 ugee and asylum processing, and of United States
9 policy toward North Koreans who may present
10 themselves at United States embassies or consulates
11 and request protection as refugees or asylum seekers
12 and resettlement in the United States;

13 (5) the total number of North Koreans who
14 have been admitted into the United States as refu-
15 gees or asylees in each of the past five years; and

16 (6) an estimate of the number of North Kore-
17 ans with family connections to United States citi-
18 zens.

19 **SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSID-**
20 **ERATION.**

21 (a) PURPOSE.—The purpose of this section is to en-
22 sure that North Koreans are not barred from eligibility
23 for refugee status or asylum in the United States on ac-
24 count of any legal right to citizenship they may enjoy
25 under the Constitution of the Republic of Korea. It is not

1 intended in any way to prejudice whatever rights to citi-
2 zenship North Koreans may enjoy under the Constitution
3 of the Republic of Korea.

4 (b) TREATMENT OF NATIONALS OF NORTH
5 KOREA.—For purposes of eligibility for refugee status
6 under section 207 of the Immigration and Nationality Act
7 (8 U.S.C. 1157), or for asylum under section 208 of such
8 Act (8 U.S.C. 1158), a national of the Democratic Peo-
9 ple’s Republic of Korea shall not be considered a national
10 of the Republic of Korea.

11 **SEC. 303. REFUGEE STATUS.**

12 The Secretary of State shall designate natives or citi-
13 zens of North Korea who apply for refugee status under
14 section 207 of the Immigration and Nationality Act (8
15 U.S.C. 1157), and who are former political prisoners,
16 members of persecuted religious groups, forced-labor
17 conscripts, victims of debilitating malnutrition, persons
18 deprived of professional credentials or subjected to other
19 disproportionately harsh or discriminatory treatment re-
20 sulting from their perceived or actual political or religious
21 beliefs or activities, or others who appear to have a cred-
22 ible claim of other persecution, as a Priority 2 group of
23 special concern for purposes of refugee resettlement.

1 **SEC. 304. PURSUIT OF FIRST ASYLUM POLICY.**

2 It is the sense of Congress that the United States
3 should pursue an international agreement to adopt an ef-
4 fective “first asylum” policy, modeled on the first asylum
5 policy for Vietnamese refugees, that guarantees safe haven
6 and assistance to North Korean refugees, until such time
7 as conditions in North Korea allow for their return.

8 **SEC. 305. UNITED NATIONS HIGH COMMISSIONER FOR REF-**
9 **UGEES.**

10 (a) ACTIONS IN CHINA.—It is the sense of Congress
11 that—

12 (1) the Government of China has obligated
13 itself to provide the United Nations High Commis-
14 sioner for Refugees (UNHCR) with unimpeded ac-
15 cess to North Koreans inside its borders to enable
16 the UNHCR to determine whether they are refugees
17 and whether they require assistance, pursuant to the
18 1951 United Nations Convention Relating to the
19 Status of Refugees, the 1967 Protocol Relating to
20 the Status of Refugees, and Article III, paragraph
21 5 of the 1995 Agreement on the Upgrading of the
22 UNHCR Mission in the People’s Republic of China
23 to UNHCR Branch Office in the People’s Republic
24 of China (referred to in this section as the
25 “UNHCR Mission Agreement”);

1 (2) the UNHCR, in order to effectively carry
2 out its mandate to protect refugees, should liberally
3 employ as professionals or Experts on Mission per-
4 sons with significant experience in humanitarian as-
5 sistance work among displaced North Koreans in
6 China;

7 (3) the UNHCR, in order to effectively carry
8 out its mandate to protect refugees, should liberally
9 contract with appropriate nongovernmental organi-
10 zations that have a proven record of providing hu-
11 manitarian assistance to displaced North Koreans in
12 China; and

13 (4) should the Government of China begin ac-
14 tively fulfilling its obligations toward North Korean
15 refugees, all countries, including the United States,
16 and relevant international organizations should in-
17 crease levels of humanitarian assistance provided in-
18 side China to help defray costs associated with the
19 North Korean refugee presence.

20 (b) ARBITRATION PROCEEDINGS.—It is further the
21 sense of Congress that—

22 (1) if the Government of China continues to
23 refuse to provide the UNHCR with access to North
24 Koreans within its borders, the UNHCR should ini-
25 tiate arbitration proceedings pursuant to Article

1 XVI of the UNHCR Mission Agreement and appoint
2 an arbitrator for the UNHCR; and

3 (2) because access to refugees is essential to the
4 UNHCR mandate and to the purpose of a UNHCR
5 branch office, a failure to assert those arbitration
6 rights in present circumstances would constitute a
7 significant abdication by the UNHCR of one of its
8 core responsibilities.

9 **SEC. 306. HUMANITARIAN PAROLE.**

10 (a) PREREQUISITES FOR ELIGIBILITY.—Because
11 North Korean refugees do not enjoy regular, unimpeded,
12 and effective access to the United States refugee pro-
13 gram—

14 (1) for purposes of section 212(d)(5)(A) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1182(d)(5)(A)), the parole of any alien who is a na-
17 tive or citizen of North Korea seeking to enter the
18 United States, and who is a victim of North Korean
19 Government malfeasance, shall be considered to be
20 of significant public benefit; and

21 (2) for purposes of section 212(d)(5)(B) of the
22 Immigration and Nationality Act (8 U.S.C.
23 1182(d)(5)(B)), the parole of any alien who is a ref-
24 ugee and a native or citizen of North Korea seeking
25 to enter the United States, and who is a victim of

1 North Korean Government malfeasance, shall be
2 considered to be for compelling reasons in the public
3 interest with respect to that particular alien.

4 (b) DEFINITION.—For purposes of this subsection, a
5 victim of North Korean Government malfeasance is a
6 former political prisoner, a member of a persecuted reli-
7 gious group, a forced-labor conscript, a victim of debili-
8 tating malnutrition, a person deprived of professional cre-
9 dentials or subjected to other disproportionately harsh or
10 discriminatory treatment resulting from his perceived or
11 actual political or religious beliefs or activities, or a person
12 who appears to have a credible claim of other persecution
13 by the Government of North Korea.

14 (c) DISCRETION.—Nothing in this section shall be
15 construed to prohibit the Secretary of Homeland Security
16 from establishing conditions for parole under section
17 212(d)(5) of the Immigration and Nationality Act (8
18 U.S.C. 1182(d)(5)), or from denying parole to such aliens
19 who are otherwise ineligible for parole.

20 (d) LENGTH OF PAROLE.—

21 (1) IN GENERAL.—Notwithstanding section
22 212(d)(5) of the Immigration and Nationality Act (8
23 U.S.C. 1182(d)(5)), if parole is granted to an alien
24 who is a native or citizen of North Korea pursuant
25 to subsection (a), the parole shall be effective until

1 the final resolution of any application for adjustment
2 of status made pursuant to section 204 of this Act.

3 (2) DENIAL OF ADJUSTMENT OF STATUS.—If
4 an application for adjustment of status made pursu-
5 ant to section 204 is denied, the Secretary of Home-
6 land Security may, in the discretion of the Sec-
7 retary, parole the alien described in paragraph (1)
8 pursuant to section 212(d)(5) of the Immigration
9 and Nationality Act (8 U.S.C. 1182(d)(5)).

10 (3) EXTENSION OF PAROLE PERIOD.—If no ap-
11 plication for adjustment of status is made pursuant
12 to section 204 within 18 months after parole is
13 granted to an alien described in paragraph (1), the
14 Secretary of Homeland Security may, in the discre-
15 tion of the Secretary, extend the parole period tem-
16 porarily under conditions that the Secretary pre-
17 scribes.

18 (4) NO GRANT OF PAROLE.—If parole is not
19 granted to an alien described in paragraph (2), the
20 alien shall be treated pursuant to section 212(d)(5)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1182(d)(5)) as if the purposes of the alien's parole
23 have been served.

24 (5) TERMINATION OF PAROLE.—Notwith-
25 standing any other provision of this section, the pa-

1 role period of an alien described in paragraph (1)
2 shall terminate when the Secretary of State deter-
3 mines that—

4 (A) the human rights record of North
5 Korea, according to the Country Report on
6 Human Rights Practices issued by the Depart-
7 ment of State, Bureau of Democracy, Human
8 Rights, and Labor, is satisfactory; and

9 (B) North Korea is no longer on the list of
10 nations designated as State sponsors of ter-
11 rorism by the Secretary of State.

12 (e) SUBSEQUENT REMOVAL PROCEEDINGS.—Noth-
13 ing in this section shall be construed to prohibit the Sec-
14 retary of Homeland Security from instituting removal pro-
15 ceedings against an alien paroled into the United States
16 under this section for—

17 (1) conduct committed after the parole of the
18 alien into the United States; or

19 (2) conduct or a condition that was not dis-
20 closed to the Secretary prior to the parole of the
21 alien into the United States.

22 **SEC. 307. NORTH KOREAN STATUS ADJUSTMENT.**

23 (a) STATUS ADJUSTMENT.—Notwithstanding section
24 245(c) of the Immigration and Nationality Act (8 U.S.C.
25 1255(c)), the status of any alien who is a native or citizen

1 of North Korea, has been inspected and admitted or pa-
2 roled into the United States subsequent to July 1, 2003,
3 and has been physically present in the United States for
4 at least 1 year, may be adjusted by the Secretary of
5 Homeland Security, in the discretion of the Secretary and
6 under such regulations as the Secretary may prescribe, to
7 that of an alien lawfully admitted for permanent residence
8 if—

9 (1) the alien makes an application for such ad-
10 justment within 18 months after parole is granted;

11 (2) the alien is eligible to receive an immigrant
12 visa and is admissible to the United States for per-
13 manent residence; and

14 (3) the Secretary of Homeland Security deter-
15 mines that the alien has complied with the require-
16 ments of subsection (b).

17 (b) REQUIRED COOPERATION WITH THE UNITED
18 STATES GOVERNMENT.—The requirements of this sub-
19 section shall be satisfied if—

20 (1) the Secretary of Homeland Security deter-
21 mines that—

22 (A) the alien is in possession of critical re-
23 liable information concerning the activities of
24 the Government of North Korea or its agents,
25 representatives, or officials, and the alien has

1 cooperated or is currently cooperating, fully and
2 in good faith, with appropriate persons within
3 the United States Government regarding such
4 information; or

5 (B) the alien is not in possession of critical
6 reliable information concerning the activities of
7 the Government of North Korea or its agents,
8 representatives, or officials; and

9 (2) the Secretary of Homeland Security deter-
10 mines that the alien—

11 (A) did not enter the United States in a
12 then-current capacity as an agent, representa-
13 tive, or official of the Government of North
14 Korea, or for any purpose contrary to the pur-
15 poses of this Act or for any unlawful purpose;

16 (B) is not, since entering the United
17 States or at the time during which the applica-
18 tion for adjustment of status is filed or in proc-
19 ess, an agent, representative, or official of the
20 Government of North Korea, or during such pe-
21 riod acting for any purpose contrary to the pur-
22 poses of this Act or for any unlawful purpose;
23 and

24 (C) in the judgment of the Secretary of
25 Homeland Security, is not likely to become an

1 agent, representative, or official of the Govern-
2 ment of North Korea, or act for any purpose
3 contrary to the purposes of this Act or for any
4 unlawful purpose.

5 (c) EFFECT ON IMMIGRATION AND NATIONALITY
6 ACT.—

7 (1) DEFINITIONS.—The definitions in sub-
8 sections (a) and (b) of section 101 of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1101) shall apply
10 to this section.

11 (2) APPLICABILITY.—Nothing in this section
12 shall be construed to repeal or restrict the powers,
13 duties, functions, or authority of the Secretary of
14 Homeland Security in the administration and en-
15 forcement of the Immigration and Nationality Act (8
16 U.S.C. 1101 et seq.) or any other Federal law relat-
17 ing to immigration, nationality, or naturalization.

18 (d) SUBSEQUENT REMOVAL PROCEEDINGS.—Noth-
19 ing in this section shall be construed to prohibit the Sec-
20 retary of Homeland Security from instituting removal pro-
21 ceedings against an alien whose status was adjusted under
22 subsection (a) for—

23 (1) conduct committed after such adjustment of
24 status; or

1 (2) conduct or a condition that was not dis-
2 closed to the Secretary prior to such adjustment of
3 status.

4 **SEC. 308. TEMPORARY PROTECTED STATUS.**

5 (a) EXTRAORDINARY AND TEMPORARY CONDITIONS
6 CONSIDERED TO EXIST.—

7 (1) IN GENERAL.—For purposes of section
8 244(b)(1)(C) of the Immigration and Nationality
9 Act (8 U.S.C. 1254a(b)(1)(C)), extraordinary and
10 temporary conditions shall be considered to exist in
11 North Korea that prevent aliens who are natives or
12 citizens of North Korea from returning to North
13 Korea in safety.

14 (2) TERMINATION OF PROTECTED STATUS.—
15 The extraordinary and temporary conditions referred
16 to in paragraph (1) shall be considered to exist until
17 the Secretary of Homeland Security determines
18 that—

19 (A) the human rights and trafficking
20 records of North Korea, according to the Coun-
21 try Report on Human Rights Practices issued
22 by the United States Department of State, Bu-
23 reau of Democracy, Human Rights, and Labor,
24 and the country report on trafficking issued by

1 the Trafficking in Persons Office of the Depart-
2 ment of State, are satisfactory; and

3 (B) North Korea is no longer on the list of
4 nations designated as state sponsors of ter-
5 rorism by the United States Department of
6 State.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the United States should use its diplomatic
9 means to promote the institution of measures similar to
10 humanitarian parole or the form of temporary protected
11 status granted under subsection (a), in countries that
12 neighbor North Korea.

13 **SEC. 309. RIGHT TO ACCEPT EMPLOYMENT.**

14 Section 208(d)(2) of the Immigration and Nationality
15 Act (8 U.S.C. 1158(d)(2)) is amended—

16 (1) by striking “Attorney General” and insert-
17 ing “Secretary of Homeland Security”; and

18 (2) by adding at the end the following: “In the
19 case of an applicant who is a citizen or native of
20 North Korea, the Secretary of Homeland Security
21 shall issue regulations under which such applicant
22 shall be entitled to employment authorization, and
23 such applicant shall not be subject to the 180-day
24 limitation described in the previous sentence.”.

1 **SEC. 310. ANNUAL REPORTS.**

2 (a) IMMIGRATION INFORMATION.—Not later than 1
3 year after the date of the enactment of this Act, and every
4 12 months thereafter for each of the following 5 years,
5 the Secretary of State and the Secretary of Homeland Se-
6 curity shall submit a joint report to the appropriate con-
7 gressional committees on the operation of this title during
8 the previous year, which shall include—

9 (1) the number of aliens who are natives or citi-
10 zens of North Korea and have been granted humani-
11 tarian parole under section 306, and the immigra-
12 tion status of such aliens before being granted hu-
13 manitarian parole;

14 (2) the number of aliens who are natives or citi-
15 zens of North Korea and have been granted an ad-
16 justment of status under section 307, and the immi-
17 gration status of such aliens before being granted
18 adjustment of status;

19 (3) the number of aliens who are natives or citi-
20 zens of North Korea who were granted political asy-
21 lum;

22 (4) the number of aliens who are natives or citi-
23 zens of North Korea who were granted temporary
24 protected status under section 308; and

1 (5) the number of aliens who are natives or citi-
2 zens of North Korea who applied for refugee status
3 and the number who were granted refugee status.

4 (b) COUNTRIES OF PARTICULAR CONCERN.—The
5 President shall include in each annual report on proposed
6 refugee admission pursuant to section 207(d) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1157(d)), informa-
8 tion about specific measures taken to facilitate access to
9 the United States refugee program for individuals who
10 have fled countries of particular concern, as defined by
11 the Secretary of Homeland Security, for violations of reli-
12 gious freedom pursuant to section 402(b) of the Inter-
13 national Religious Freedom Act of 1998 (22 U.S.C.
14 6442(b)). The report shall include, for each country of
15 particular concern, a description of access of the nationals
16 or former habitual residents of that country to a refugee
17 determination on the basis of—

18 (1) referrals by external agencies to a refugee
19 adjudication;

20 (2) groups deemed to be of special humani-
21 tarian concern to the United States for purposes of
22 refugee resettlement; and

23 (3) family links to the United States.

○